

for the first time in our history. It was 212 days.

Unfortunately, that time is still growing and the average is still rising to the detriment of the administration of justice. Last year the Senate broke its dismal record. The average time from nomination to confirmation for the 65 judges confirmed in 1998 was over 230 days.

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its members—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees since the 104th Congress, the Senate is shirking its duty. That is wrong and should end.

As the Senate recesses for the Independence Day holiday, I hope Senators will reflect on this record and the need to maintain the independence of the judiciary by acting more promptly on the nominations of the many fine men and women pending before us. We have 45 nominations still pending, the Senate having only acted on only two all year. The courts are faced with 72 vacancies, many of extensive duration. The Senate recesses with a sorry record of inaction on judicial nominations.

The PRESIDING OFFICER. The Senator from North Dakota.

AGRICULTURE APPROPRIATIONS

Mr. DORGAN. Mr. President, I understand yesterday there was a press conference on the Capitol lawn. They brought in some big, shiny farm tractors and a group of folks held a press conference, with the tractors as a background, wheezing and moaning about the agriculture appropriations bill, saying somehow that bill is getting held up and it will hurt family farmers.

I advise my colleagues, if we had invoked cloture as the majority leader and others wanted with respect to that bill, we would have been prevented the opportunity to offer an amendment on the floor dealing with the farm crisis, an amendment that provides some basic income support to family farmers during this urgent farm crisis. We would not have been able to do that.

Voting yes on cloture, on a bill that the majority leader pulled off the floor and then brought back on a cloture motion, would mean there is no opportunity to vote for some kind of income support package for family farms while there are collapsed prices. We have tried to get that before this Congress.

I sat downstairs at midnight in the emergency conference on appropriations between the House and the Senate. Senator HARKIN and I offered an amendment that would have provided about \$5.5 billion in emergency help for family farmers during this collapse of farm prices. We lost on a 14-14 tie vote. Then we tried in the appropriations subcommittee and lost there on a partisan vote.

We intend to offer the amendment on behalf of family farmers on the floor,

saying when prices collapse, if this country cares about family farmers, if this Senate is indeed profamily and cares about family farmers and wants to have some family farmers in its future, then it will pass an emergency package to respond to family farmers' needs during this price collapse. We wouldn't have been able to do that if we voted to invoke cloture. We would not have been able to offer the amendment. Now we have people saying somehow those who voted against cloture have disserved the interests of farmers.

The agricultural appropriations bill that came to the floor is a piece of legislation that funds USDA; it funds the research programs and the other programs at USDA. It takes effect October 1. It does not take effect for months.

The delay of the bill is not going to injure, in any way, family farmers. The bill will get passed on time. It will be sent to the President and be signed. Contrary to those standing in front of a tractor yesterday, wheezing and blowing about farm issues—some of whom I bet wouldn't know a bale of hay from a bale of twine—I guarantee before that bill leaves the Senate, we intend to offer an emergency package to say to family farmers: You matter; we are going to help you; when prices collapse, we will help you over the price "valley."

What happens to a company on Wall Street, Long-Term Capital Management, that threatens to lose billions of dollars? What happens is they get bailed out by the Federal Reserve Board.

What would happen if we were talking about big corporations? They would get bailed out, but they are family farmers.

Somehow in the minds of some, it does not matter what happens to family farmers. It matters to me. It does to many of my colleagues on this side of the aisle.

I know why they held the press conference with tractors. It is because they are upset that folks on this side of the aisle offered a Patients' Bill of Rights. The reason the Patients' Bill of Rights was offered in the Senate on agriculture, and it would not have mattered on which bill it was offered, is we said it was going to be offered to the first bill that came up if we were not given the opportunity to have a Patients' Bill of Rights on the floor of the Senate.

It was offered because we have pushed and pushed and pushed and we have been denied the opportunity to debate and offer amendments on a Patients' Bill of Rights. That is not the way the Senate is supposed to work. You are supposed to be able to offer legislation, offer amendments, have debates, and then have a vote. But some do not want the Senate to operate that way. They want to shut the place down, close the blinds, pull the windows shut, and then say: This is our agenda. Here is all we are going to

allow you to do. You can offer these three amendments. They have to be worded this way. If we don't agree with them, we will not give you the privilege of speaking on the floor. That is not the way the Senate is supposed to operate and we will not let it operate that way. We have rights.

The American people have rights. In my judgment, patients in this country have the right to know all of their medical options for their treatment, not just the cheapest. Patients have the right to get emergency room treatment when they have an emergency. Patients have a right to keep their own doctors during cancer treatment even if their employers change HMOs. All of those issues are issues we intend to fight for on behalf of patients in this country. But we are denied that right by a majority who says you can only talk about the things we want to talk about.

Then when the agriculture appropriations bill or any other bill comes to the floor and we offer the Patients' Bill of Rights, we are told by the same folks who say they care about farmers that we have delayed the agriculture appropriations bill. This bill will not take effect until October 1 and is to fund the U.S. Department of Agriculture and had we voted for cloture, it would have prevented Senator HARKIN and myself from offering the specific amendment to deal with income support for family farmers during this farm crisis.

I just have to say it takes some imagination to hold a conference and suggest we are the problem.

Mr. DURBIN. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. DURBIN. Is it not true the course of the debate we have literally taken is to debate measures such as the Y2K liability bill with dozens of amendments, and there was not a complaint made that we were slowing down the process on appropriations?

Mr. DORGAN. That is exactly the case. It is the case that we are in the circumstance which now exists because there are some here in the Senate who simply do not want to have to vote on the issues we are talking about with respect to the Patients' Bill of Rights. They want to have a slogan so they can vote for something titled the Patients' Bill of Rights but one that will not have any strength; one that will really not have any provisions to provide people with the basic rights they ought to be provided with respect to this health care issue.

We have talked at great length about the too many instances in this country where health care decisions are not made by a doctor in a patient's room in the hospital or by a doctor in a doctor's office at a clinic, but where the answer to what kind of patient care will be allowed is to often, in too many circumstances, made by an accountant making medical judgments somewhere in an insurance company office 1,000 miles away. That is what is wrong with the system.

Mr. DURBIN. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. DURBIN. Is my understanding correct that some 200 groups that represent consumers and doctors and hospitals and business and labor have endorsed the Democratic Patients' Bill of Rights and, to my knowledge, the only group endorsing the Republican approach to this is the insurance industry?

Mr. DORGAN. The Senator describes it exactly. It is the difference between one approach that is toothless and an approach that has some teeth to it that says we are going to make this work; we are going to offer some basic protections to patients.

I have a poster I was going to show today. I will show it later in the day. It is a poster of a young boy in a wheelchair named Ethan who was denied treatment by the HMO. He was born with very difficult problems that impaired the use of his limbs. He was denied treatment because a doctor who had never seen this young patient decided that the patient had a 50-percent chance of being able to walk by age 5, and a 50-percent chance of being able to walk if he gets the appropriate therapy is "not significant." This is from a doctor who did not see the patient. It is not significant that this person might have a 50-percent chance of being able to walk, therefore we deny coverage.

That is the kind of thing that is happening time and time again. I say to the Senator from Illinois, I have talked about this woman who falls off a cliff, drops 40 feet, fractures her bones in three places, is knocked unconscious, taken by medevac helicopter out to a hospital, is brought into the emergency room unconscious, survives, and later is told: We will not pay the emergency room bill because you didn't have prior approval for emergency room treatment. This is a woman unconscious, brought into the emergency room for help. That is the kind of thing that ought to stop. Does she have a right through her health care coverage to emergency room treatment when she is knocked unconscious from a fall in the mountains? The answer is yes, of course. We demand that right be given that patient in this Patients' Bill of Rights.

Mr. DURBIN. If the Senator will yield for one other question, it is my understanding the Republican bill, supported by the insurance industry, provides no protection to 115 million Americans who have no health insurance, whereas the Democratic bill provides protection to all of those in this country who have health insurance. That is a pretty dramatic difference; is it not?

Mr. DORGAN. The Senator is absolutely correct. Again, it is the difference between an approach that is toothless and an approach that has teeth; one that works, makes a difference, one that matters.

So we have a couple of bills ricocheting around here for which the

other side has adopted the same title—which is a nice thing to do, I guess: The Patients' Bill of Rights. The question is scope. How many Americans will it cover and what kind of coverage will it offer? Will it, in fact, help people like that young boy who was told a 50-percent chance to be able to walk by age 5 really doesn't cut it with us; we will not provide the therapy you need? Or will it, in fact, provide assurance to someone who is knocked unconscious in an accident, that if he or she goes into an emergency room unconscious nobody is going to say later: You should have gotten prior approval from the emergency room?

Mr. REID. Will the Senator yield?

Mr. DORGAN. I will be happy to yield.

Mr. REID. I will ask this in the form of a question. Not only are we concerned now about the terrible care that is being given or not given to patients, but would the Senator care to comment on what we are seeing as a result of how doctors are being treated? Could you have imagined 5 or 10 years ago that the doctors would join together to form unions to protect their interests, as they are doing now?

Mr. DORGAN. I say to the Senator, I was as surprised as anyone to read the news these days about doctors wanting to join a union. But the reason is pretty obvious. They are tired of not being able to practice health care on their own. They are tired of someone making decisions about their patients who they have seen. They are the ones who have been in the examining rooms. They are the ones who have visited the hospital beds. Yet an accountant 500 miles away or 1,000 miles away in some insurance office, is telling them how to practice medicine. They are flat sick of it.

Mr. REID. So I say to my friend, it is not only the patients who are rising up, but now we have the doctors rising up because of this managed care program. I think that is the reason the American people have latched onto this issue and are saying please, Washington, do something. Does the Senator think that is a fair statement?

Mr. DORGAN. I think that is exactly the case, the reason over 200 medical, consumer, and labor groups support this legislation. I have a picture loaned to me by Dr. GANSKE, who is a Member of Congress from the House, a Republican, a very thoughtful Congressman. He is a doctor who does reconstructive surgery. He held up the picture of this young boy. Let me hold up that picture, if I might, just so everyone understands what we are talking about. This is a terrible deformity. Dr. GANSKE held this picture up to use it as an illustration.

Obviously, you look at this young boy and you say what an awful deformity to have to live with. But there are ways, of course, to correct this. A young boy doesn't have to live with that deformity. Dr. GANSKE pointed out he did a survey of his fellow doctors and discovered that half of his fellow

doctors had experienced the circumstance of having an HMO say: No, this is not medically necessary. You don't need to correct this. It is not medically necessary.

Can this young person live with this? Yes, I suppose so. Would any prudent American say it is medically necessary to help fix this problem, to give this young child the opportunity to get reconstructive surgery? The answer is clearly yes. That is what is at the root of this issue.

Mr. REID. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. REID. Dr. GANSKE, who is a conservative Republican from the State of Iowa, voted on this issue and joined the Democrats' Patients' Bill of Rights because of this and other instances. Here is a man who also brought in a picture later showing what could happen to a child who has surgery that has been perfected over the decades. This is a child who has a cleft palate; is that not true?

Mr. DORGAN. That is correct.

Mr. REID. I would ask one further question to the Senator.

Isn't it true there are over 200 organizations that support our Patients' Bill of Rights and that the only organization that opposes our Patients' Bill of Rights is the insurance industry basically?

Mr. DORGAN. As I understand it, the Senator describes the case exactly. Virtually every organization in health care supports what we are trying to do. The doctors in this country, the patients all support what we are trying to do because they know we are trying to solve problems.

Let me go back to this notion there are two different approaches. The approach they offer is toothless. It has a title and does not mean anything very much. The approach we offer has teeth, is real, and makes a difference in people's lives.

I want to make one additional point and then conclude because I know there are others who wish to speak. I came to the floor today because the majority leader and others held a press conference yesterday with tractors as a backdrop saying what we have been doing here is shortchanging American farmers. Nothing is further from the truth. American farmers are going to be well served by a Senate that does not push this agriculture appropriations bill through without emergency help which farmers desperately need. That is exactly what would have happened if we had voted for cloture as the majority leader was insisting.

Had we voted for cloture on the agriculture appropriations bill, the amendment that Senator HARKIN and I were going to offer for \$6 billion to \$7 billion in emergency help for farmers would have been ruled nongermane. It would have been over. We cannot pass an agriculture appropriations bill in the Senate without addressing this farm crisis, and those who stood in front of

tractors and talked about farmers know that. They know better than that. We cannot pass an agriculture appropriations bill and say we have done our job if we ignore the crisis which now exists and if we do not pass some basic income support package.

Senator HARKIN, Senator DURBIN, and I tried in the midnight hours of the emergency appropriations bill. We lost on a 14-14 tie vote. We tried to get it in this year's appropriations bill but lost on a partisan vote. We must try again on the floor of the Senate, and we will in the coming weeks.

We had a farmer and author testify before the Democratic Policy Committee named Wendell Berry. He has written a book called "Another Turn of the Crank." I was thinking about that today because yesterday's show in front of these polished tractors was just another turn of the crank.

As I said, some of these folks would not know a bale of hay from a bale of twine and they are telling us about the long-term interests of farmers. Many of us who fight for farmers every day in every way are insistent that before this Senate moves any appropriations bill dealing with agriculture out of this Senate, it does not just deal with the programs and research over in USDA, that it deals with the income needs of family farmers. That is what has been at stake in the last couple of days.

Frankly, I am not a happy person to see the criticism that has been leveled by those who do not know anything about family farmers and those actions which will undercut our attempt to help family farmers.

Mr. EDWARDS. Will the Senator yield for a question?

Mr. DORGAN. Yes.

Mr. EDWARDS. I wonder if the Senator has the same perception I do, being from the State of North Carolina. The Senator and I both know that agriculture and our family farmers are in desperate crisis, and they need help in the worst kind of way. He and I are committed to help them. I know that. I have heard him talk about that subject in this Chamber. I feel very strongly about that.

My question is about this Patients' Bill of Rights issue. It seems to me what we have—there has been a lot of discussion about the Democratic version and the Republican version—is an insurance company bill, on the one hand, and a patients' and doctors' bill on the other hand. Will the Senator agree with that?

Mr. DORGAN. I think that is correct.

Mr. EDWARDS. Also, we have such extraordinary medical technology in this country. We have the most advanced medical treatment available in the world today. Can the Senator explain to us how that treatment and the fact we are the most advanced medical country in the world today does anybody any good if folks cannot get access to it? Does the Senator have any explanation for that?

Mr. DORGAN. The Senator asks a question that relates to the key com-

ponents of our piece of legislation. I again refer to this picture used by Dr. GANSKE, a Congressman in the House of Representatives, a Republican who supports our basic legislation.

Does current medical technology and all the advances in reconstructive surgery do this young child any good, if the child does not have access to it, if the child's parents belong to an HMO that says, no, it is not medically necessary we correct that deformity, it is not medically necessary at all? Does that kind of medicine help this child? The answer is no. What helps this child is a determination by this Senate that health care plans ought to judge on a uniform basis that this type of deformity is medically necessary and this child would get reconstructive treatment to solve that problem.

Mr. EDWARDS. Will the Senator yield for one last question?

Mr. DORGAN. I will be happy to yield.

Mr. EDWARDS. We discussed it briefly a moment ago, and that is the fact that doctors are finding it necessary to unionize or to make an effort to unionize because they are no longer able to prescribe the treatments and tests for their patients they know their patients need, in fact because they are not able to make determinations about what is medically necessary, whether a child—if the Senator would hold this photograph up one more time—whether such a child medically needs the surgical procedure the Senator talked about in the last few minutes, the fact that doctors find it necessary to unionize in order to do what they have spent their entire lives being trained to do, which is to provide the best possible medical care to their patients. Can the Senator imagine a more powerful indication and symptom of the medical crisis confronting this country today?

Mr. DORGAN. I cannot. The Senator makes a point with his question. This is real trouble for a lot of patients, and what we are trying to do and say is health care is changing and patients ought to have rights. That is what our Patients' Bill of Rights does. It empowers patients and allows them to believe that if they are covered with health care through their HMO, there will be some basic guarantees that just, prudent people expect would be there anyway but which we have now seen in recent years by some HMOs have systematically been denied patients.

Let me make one final point. Not always, but too often health care treatment has become a function of profit and loss for some corporations. Look at their executives. Find how much money they are making in this industry. Then they say: But we can't afford to provide emergency room care for someone who is unconscious and presents himself on a gurney to emergency room workers, or we can't help this young child with a facial deformity which clearly needs attention. We can't help a child in a wheelchair who

has a 50-percent chance of walking and told you don't get the therapy because a 50-percent chance of walking by age 5 is insignificant.

We are saying those are not medical judgments made by a doctor. Those are insurance judgments made by HMO accountants 1,000 miles away, and they undercut the very premise of this health care system in which we ought to expect prudent treatment that a doctor believes is necessary for a patient. Yet in too many instances, they are not getting it. This is not just a consumer bill or a patients' bill, it is a bill that really gets at the root of health care in this country. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, my colleague from North Carolina has 3 minutes. I wonder if he can speak, and I ask unanimous consent I follow him and Senator BOXER follow me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. I thank the Senator.

TRIBUTE TO MICHAEL HOOKER, CHANCELLOR OF THE UNIVERSITY OF NORTH CAROLINA

Mr. EDWARDS. Mr. President, I rise today to note with sadness the death this morning of the Chancellor of the University of North Carolina at Chapel Hill, Michael Hooker.

Chancellor Hooker was a friend and someone whom I have known for a number of years. He was a man of vision, enthusiasm, energy, brilliance, and he had an extraordinary love for the State of North Carolina.

His passing is not only a loss for those of us in the University of North Carolina family, but for all North Carolinians. By making a great university better, Michael Hooker made a lasting contribution to our entire State.

The truth is that his death was both a shock and a blow. Just yesterday he was at work in Chapel Hill.

He was diagnosed this year with non-Hodgkin's lymphoma and had been undergoing treatments at the National Cancer Institute in Maryland and also at the UNC Hospitals.

While he was up here, I had the pleasure of seeing him a few times. Not too long ago, I ran into him and his wonderful wife Carmen, who is an extraordinary woman, right outside the Senate Chamber. He looked well and was feeling optimistic at that time about his health. He did take a brief leave from his job for treatment of the disease, but for most of the year, he was hard at work.

I cannot say how sad I felt to learn this morning the news that his cancer had grown worse and that it took him at an early age—at the age of 53. My thoughts and prayers go out to Carmen, his wonderful wife, and to their children.